



DEPARTMENT OF THE ARMY
HEADQUARTERS UNITED STATES ARMY FORCES COMMAND
1777 HARDEE AVENUE SW
FORT MCPHERSON GEORGIA 30330-1062

REPLY TO
ATTENTION OF

AUG 27 1999

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MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Contracting Information Letter (CIL) 99-40, Department of Labor Wage Rate Reviews

1. The Service Contract Act (SCA) wage rates in effect for certain areas may be below the current prevailing wage rates in those areas. The Department of Labor (DOL) figures could be based on either inaccurate information or extremely outdated data. We noted that at one location the wage rates remained mostly unchanged over a 10-year period (new wage rates were issued, but only some benefits seemed to increase). At the same time, installation contractors complained of losing employees because of higher wages being paid elsewhere.
2. While low SCA wage rates may save the Government money through lower contract costs, the matter became acute when it was noted during a CA study that Government wages, which had risen over this same 10-year period, now were higher than prevailing local wages. This was perceived as an unfair bidding advantage for contractors in relation to the in-house costs for the Most Efficient Organization (MEO).
3. In the past, the Department Of Labor (DOL) sent out wage surveys to local Government and civilian employers, unions, etc. to update their database and create an accurate wage rate. Due to downsizing and other budgetary constraints, this no longer seems to be the case. The actual wage rates are based heavily on data obtained from Bureau of Labor Statistics (BLS) surveys. The BLS changed their survey methodology to emphasize larger areas. This shift to the larger area makes the survey results somewhat inappropriate for SCA wage determination purposes. These changes, along with the smaller budget/manpower availability have created a situation where few SCA wage determinations are being updated, especially in larger suburban areas. DOL is trying to come up with a new survey methodology and, in the process, is seeking help/input from other agencies.

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4. In addition, wage rates may actually be constructed and published at a centralized location in D.C., rather than by the local regional office. This can affect the timely publication of recently updated rates. After compiling the data necessary to indicate a rate change is called for, it must be transmitted to the central office. This transference creates a geographical buffer between the office publishing the rates and the area(s) affected by the rates. Unless your installation happens to be located in the area of the centralized office, it is more difficult to appear personally to complain if data is disseminated either too slowly or inaccurately.

5. In order to overcome these problems, installations may need to take one or more of the following steps:

a. Compile pay-rate data for your area by conducting pay surveys of local state employee offices, college/trade school placement offices, and local employers for whatever pay data may be offered.

b. Bring the matter to the attention of DOL Headquarters if, after a reasonable period of time, wage data submitted to the responsible DOL office does not result in issuance of a new wage rate reflecting the new data. In this case, the matter should be forwarded through this Headquarters to the DA Labor Advisor for presentation to DOL. Before forwarding, the matter should be brought to the attention of the installation Labor Counselor. The local Labor Counselor will determine whether the latest DOL wage rate is clearly inaccurate and that DOL had sufficient time to incorporate the new wages. If so, the local Labor Counselor should contact the local DOL office to ascertain why the new data was not included. If the local office denies accountability for the latest wage rate, or cannot sufficiently explain, the local POC's name and comments should be entered into the file. The file should then be forwarded to the FORSCOM Labor Counselor for submission to the DA Labor Advisor.

c. Contact the Civilian Personnel Management Service, Wage & Salary Division. POC Mr. Charles Grimes, (703) 696-1744. This group has the expertise and manpower to conduct the survey mentioned in subpart "a" of this paragraph. While there is a

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fee involved, the installation may find hiring this group to conduct the survey is cost effective for the installation.

6. DOL is an independent Government organization, with final authority to determine when, or whether, new wage rates are appropriate. The point here is, even if the DA Labor Advisor is able to bring an extensive set of data to DOL indicating a new wage rate appears appropriate, there is nothing anyone can do to **force** DOL to issue that new wage rate. However, if no appeal is made concerning that decision, there is no inducement for the Government to change or deviate from that decision in any similar situation.

7. The SCA wage rates are the minimum wage rates. There is nothing to prevent an employer from paying more than the local SCA wage rate. Paying higher wages might be necessary to prevent contract employees from bleeding over to another employer or higher wage area. Local wage surveys can be used to justify wage costs above SCA wage rates as reimbursable in a cost type contract if the survey supports this.

8. In cost reimbursement solicitations, contracting officers are required to subject all proposed costs to a "cost realism analysis" in accordance with FAR 15.404-1(d). Consequently, cost realism analysis should be relied upon in assessing whether contractors will be able to maintain adequate staffing at the wages proposed. If the DOL wage determination is so low that contractors will not be able to maintain adequate staffing at the wages proposed, cost realism analysis should result in an adjustment in cost for purposes of evaluation.

9. Prior to issuing a solicitation, if the contracting officer knows or suspects that the prevailing wages in the local area are significantly at variance with the wage determination, the contracting officer has a duty to challenge the wage determination. The contracting officer should identify the suspected variance to prospective offerors. Offerors should be required in the solicitation to address the wage rates proposed and demonstrate that they will be able to obtain and retain qualified staff to perform the required work. Proposals should reflect the offeror's knowledge of local labor conditions and

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proposed methods for dealing with these conditions. Most of our solicitations already require that offerors address obtaining and retaining qualified staff. We need to assure solicitations address and the government evaluates the offeror's assessment of the availability of labor and level of required wages in comparison with the local wage determination.

10. To summarize, where there is a known or suspected differential between the DOL wage determination and prevailing wages, cost realism must be adequately addressed in both sections L and M of the solicitation and in the offeror's proposal. The local survey is critical and must be fully documented to substantiate the differential. The solicitation should disclose information available to the government on prevailing wages, where different from the SCA minimum wages, and how cost realism will be assessed. The ability to obtain and retain qualified personnel at the wage rate proposed should be a required portion of the submission by contractors on future solicitations. Failure to demonstrate this ability in the cost proposal will be an issue for negotiation.

11. This CIL was coordinated with the FORSCOM SJA labor counselor. Contact Pat Boterweg, boterweg@forscom.army.mil, DSN 367-6207 or commercial (404) 464-6207 for additional information.



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